

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JOHN CAVE and NANCY CAVE as individuals,  
parents, legal guardians and guardians ad litem of  
JOHN CAVE JR. and JOHN CAVE JR.,

Plaintiffs,

-against-

EAST MEADOW UNION FREE SCHOOL  
DISTRICT, W. TRESPER CLARKE HIGH  
SCHOOL, ROBERT R. DILLON as administration  
of The East Meadow Union Free School District  
and W. Tresper Clare High School and ROBERT R.  
DILLON individually and personally, JOSEPH  
BARBERA as administration of The East Meadow  
Union Free School District and W. Tresper Clare  
High School and JOSEPH BARBERA individually  
and personally, LEON J. CAMPO as administration  
of The East Meadow Union Free School District  
and W. Tresper Clare High School and LEON J.  
CAMPO individually and personally, TIMOTHY  
VOELS as administration of The East Meadow  
Union Free School District and W. Tresper Clare  
High School and TIMOTHY VOELS individually  
and personally, DEBORAH COATES as President  
of the Board of Education of EAST MEADOW  
SCHOOL DISTRICT and W. TRESPER CLARKE  
HIGH SCHOOL and DEBORAH COATES  
individually and Personally, BRIAN  
O'FLAHERTY as Vice President of the Board of  
Education of EAST MEADOW SCHOOL  
DISTRICT and W. TRESPER CLARKE HIGH  
SCHOOL and BRIAN O'FLAHERTY individually  
and Personally, DEBRA KIRSH, as Trustee of the  
Board of Education of EAST MEADOW UNION  
FREE SCHOOL DISTRICT and W. TRESPER  
CLARKE HIGH SCHOOL and DEBRA KIRSH  
individually and Personally, JUDY SHIECHEL, as  
Trustee of the Board of Education of EAST

**MEMORANDUM OF  
ORDER**  
07 CV 0542 (ADS)(MLO)

MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and JUDY SHIECHEL individually and Personally, WALTER SKINNER, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and WALTER SKINNER individually and Personally, BARRY RUBINSTEIN, as Trustee of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and BARRY RUBINSTEIN individually and Personally, JOSEPH PARISI, as TRUSTEE of the Board of Education of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and JOSEPH PARISI individually and Personally, GERALDINE DODDATO as Assistant Principal and administration of The East Meadow Union Free School District and W. Tresper Clare High School and GERALDINE DODDATO individually and personally, DARRYL STRABUK as Assistant Principal and administration of The East Meadow School District and W. Tresper Clare High School and DARRYL STRABUK individually and personally, PATRICE DOBIES as an employee, agent and servant of EAST MEADOW UNION FREE SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and PATRICE DOBIES individually and Personally and JOHN CAMPO as an employee, agent and servant of EAST MEADOW SCHOOL DISTRICT and W. TRESPER CLARKE HIGH SCHOOL and JOHN CAMPO individually and Personally,

Defendants.

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**APPEARANCES:**

**PAUL J. MARGIOTTA, ESQ.**

Attorney for the Plaintiffs  
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**JASPAN, SCHLESINGER & HOFFMAN, LLP**

Attorneys for the Defendants  
300 Garden City Plaza  
Garden City, New York 11530  
By: Stephen R. Schlesinger, Esq.  
Stanley A. Camhi, Esq.  
Carol A. Melnick, Esq., of Counsel

**SPATT, District J.**

This case is about a hearing impaired boy in high school whose family wants him to bring into school and into his classes a dog known as a service dog to assist him in his endeavors and to help train the dog. The school declined to allow the dog into the school on the grounds that the young man is being satisfactorily accommodated already and that the dog would cause problems for the student himself and for other students and teachers and would cause disruptions.

On March 19, 2007 the Court issued a memorandum of decision and order denying the plaintiffs' request for a preliminary injunction against the school district. The plaintiffs appealed from that ruling. On January 23, 2008, the United States Court of Appeals for the Second Circuit found that this Court lacked subject matter jurisdiction over the action because the plaintiffs were required to exhaust the

administrative remedies available under the IDEA before filing their suit in federal court. Therefore, pursuant to the ruling of the Second Circuit, the Court will dismiss the appellants' complaint in its entirety without prejudice for lack of subject matter jurisdiction.

For the foregoing reasons, it is hereby

**ORDERED**, that the plaintiffs' complaint is dismissed in its entirety, without prejudice; and it is further

**ORDERED**, that the Clerk of the Court is directed to close the case.

**SO ORDERED.**

Dated: Central Islip, New York  
January 29, 2008.

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge